



Entered on Docket
November 08, 2011

A handwritten signature in dark ink, appearing to read "Linda B. Riegle".

Hon. Linda B. Riegle
United States Bankruptcy Judge

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

**USA COMMERCIAL MORTGAGE
COMPANY,**

Debtor.

Case No. BK-S-06-10725-LBR

CHAPTER 11

**Order Sustaining First Omnibus Objection
Of USACM Trust To Proofs Of Claim
Based Upon Investment In The Cabernet
Highlands Loan**

Hearing Date: August 30, 2011

Hearing Time: 10:30 a.m.

The Court having considered the "First Omnibus Objection Of USACM Trust To Proofs Of Claim Based Upon Investment in The Cabernet Highlands Loan, [DE 8714] (the "Objection"); the Court having heard the Objection on August 30, 2011; appropriate notice of the Objection having been given; no response to the Objection having been filed; the Court noting on the record that the partial disallowance of the Claims listed on

1 **Exhibit A** does not affect the direct lenders' right to repayment by the borrower or from
2 the collateral securing the Cabernet Highlands Loan; and good cause appearing:

3 **IT IS ORDERED** that:

- 4 1. The Objection [DE 8714] is sustained;
- 5 2. The portion of each Claim that relates to diverted principal is hereby
6 allowed; and
- 7 3. After subtracting the diverted principal, as to the remainder of the proof of
8 claim as shown on **Exhibit A**, attached, 20% is hereby allowed and 80% is hereby
9 disallowed to the extent these claims are based upon an investment in the Cabernet
10 Highlands Loan; and
- 11 4. This order pertains only to claims related to the Cabernet Highland Loan and
12 not any other claims of the Direct Lenders.

13
14 PREPARED AND RESPECTFULLY SUBMITTED BY:

15 **LEWIS AND ROCA LLP**

16
17 By /s/ John Hinderaker (AZ #018024)

18 Robert M. Charles, Jr.

19 John Hinderaker (*pro hac vice*)

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24 *Attorneys for USACM Liquidating Trust*

LOCAL RULE 9021 CERTIFICATION

In accordance with LR 9021, counsel submitting this document certifies that the order accurately reflects the court's ruling and that (check one):

_____ This Court has waived the requirement set forth in LR 9021(b)(1).

XXX No party appeared at the hearing or filed an objection to the motion.

_____ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

Counsel appearing: _____

_____ I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order

U.S. Trustee: <u>Augie Landis</u>	
<input type="checkbox"/> approved the form of this order	<input type="checkbox"/> disapproved the form of this order
<input checked="" type="checkbox"/> waived the right to review the order and/or	<input type="checkbox"/> failed to respond to the document
Other Party: _____	
<input type="checkbox"/> approved the form of this order	<input type="checkbox"/> disapproved the form of this order
<input type="checkbox"/> waived the right to review the order and/or	<input type="checkbox"/> failed to respond to the document

Submitted by:
LEWIS AND ROCA LLP

By: /s/ John Hinderaker. (AZ #018024)
Attorneys for USACM Liquidating Trust

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USACM Trust

Cabernet Highlands, LLC

Single Loan Claims

Claim	Date Claim Filed	Name	Address	Total Claim Amount Relating to the Cabernet Highlands, LLC Loan	Unremitted Principal to be Allowed as Claim Relating to the Cabernet Highlands, LLC	Approximate Amount Related to an Investment In the Cabernet Highlands, LLC Loan	Amount Disallowed (80%)	Amount Allowed (20%)
10725-01351	11/13/2006	Adams, Richard G	*Undeliverable Address* 6990 E Thirsty Cactus LN Scottsdale, AZ 85262	54,293.90	11,538.46	42,755.44	34,204.35	8,551.09
10725-01800	12/18/2006	Barroso, Pedro	3231 Cambridgeshire St Las Vegas, NV 89146-6223	25,000.00	5,769.23	19,230.77	15,384.62	3,846.15
10725-00159	8/14/2006	Chiappetta Trust Dated 4/1/03	C/O Pat And Joann Chiappetta Trustees 118 Bee Creek Court Georgetown, TX 78633	50,000.00	-	50,000.00	40,000.00	10,000.00
10725-01580	12/8/2006	Cielen, James	2880 Bicentennial Pkwy Ste 100-223 Henderson, NV 89044	31,250.00	5,769.23	25,480.77	20,384.62	5,096.15
10725-02379	1/16/2007	Donna M Cangelosi Family Trust	C/O Donna M Cangelosi Trustee 5860 Lausanne Dr Reno, NV 89511-5034	11,538.46	-	11,538.46	9,230.77	2,307.69
10725-00346	9/28/2006	John & Janet Marasz Trust Dtd 12/2/04	C/O John T & Janet F Mrasz Ttees PO Box 38 Sun Valley, CA 91353-0038	153,846.15	46,153.85	107,692.30	86,153.84	21,538.46
10725-00347	9/28/2006	John T Mrasz Ent Inc Defined Benefit Plan Dtd 5/86	C/O John T & Janet Mrasz Ttees Po Box 38 Sun Valley, CA 91353-0038	200,000.00	46,153.85	153,846.15	123,076.92	30,769.23
10725-00902	10/31/2006	Joyce E Smith Trust Dated 11/3/99	C/O Joyce E Smith Trustee 3080 Red Springs Dr Las Vegas, NV 89135-1548	52,915.20	11,538.46	41,376.74	33,101.39	8,275.35

EXHIBIT A

Claim	Date Claim Filed	Name	Address	Total Claim Amount Relating to the Cabernet Highlands, LLC Loan	Unremitted Principal to be Allowed as Claim Relating to the Cabernet Highlands, LLC	Approximate Amount Related to an Investment In the Cabernet Highlands, LLC Loan	Amount Disallowed (80%)	Amount Allowed (20%)
10725-01518	11/29/2006	Lily Markham & Irene Anne Markham-Tafoya Jt WROS	7746 Foredawn Dr Las Vegas, NV 89123-0756	50,000.00	11,538.46	38,461.54	30,769.23	7,692.31
10725-00099	8/15/2006	Murphy Family Trust	Dr James & Tracy Murphy Ttees C/O Christopher D Jaime Esq, PO Box 30000 Reno, NV 89520	122,753.00	23,076.92	99,676.08	79,740.86	19,935.22